



CITY OF SUNNYVALE REPORT Administrative Hearing

June 29, 2005

SUBJECT: **2005-0284 – Jim Fulton** [Applicant] **Sobrato Interests II** [Applicant]: Application on a 2.74 acre site located at **955 E. Arques Avenue** (near DeGuigne Drive) in an MS (Industrial and Service) Zoning District. (APN: 205-25-009)

Motion Application for a Parcel Map on a 2.74 acre site to allow for the subdivision of two existing industrial buildings into two individual industrial condominium buildings.

REPORT IN BRIEF

Existing Site Conditions Industrial and Office Buildings

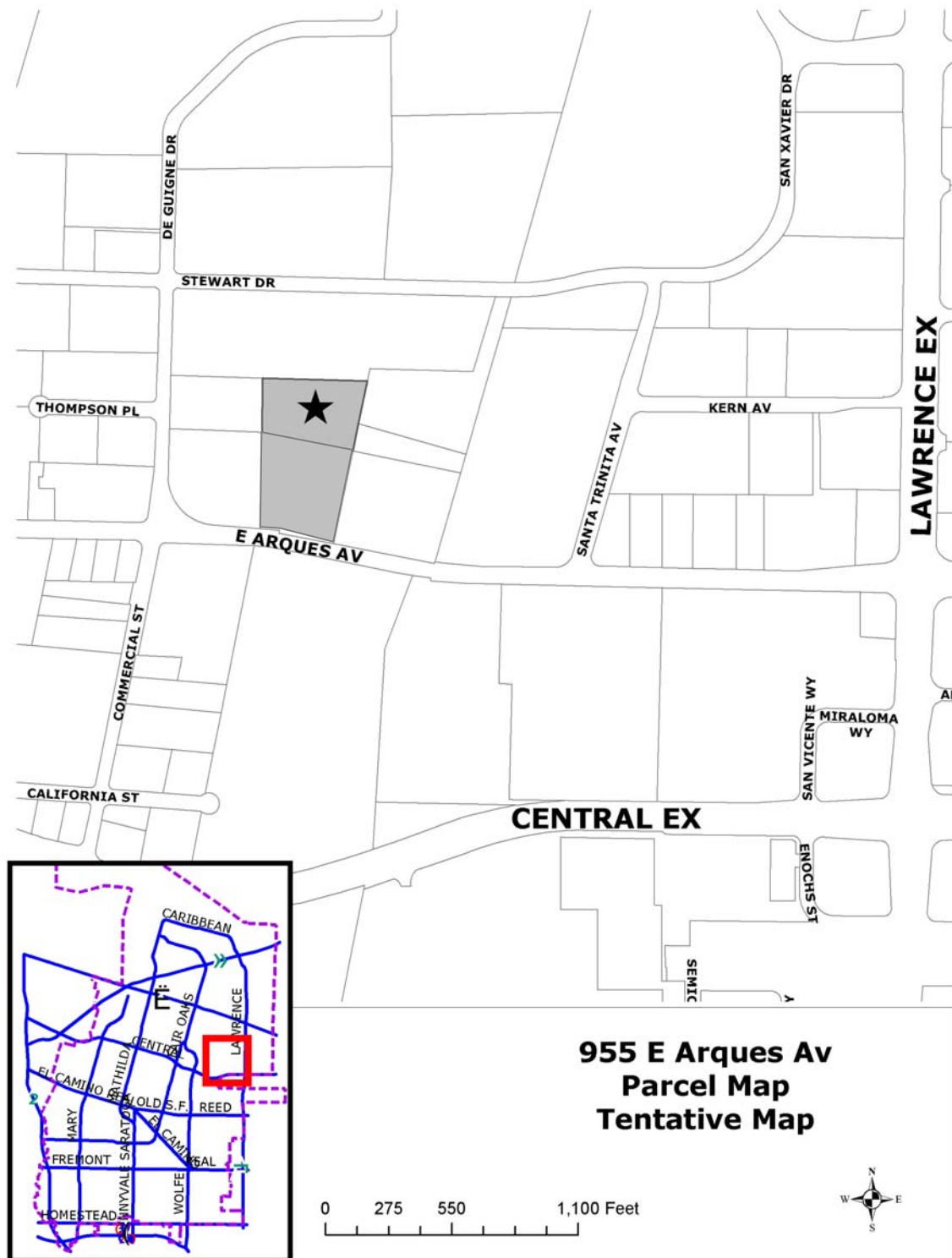
Surrounding Land Uses

North	Industrial and Office Buildings
South	Industrial and Office Buildings
East	Industrial and Office Buildings
West	Industrial and Office Buildings

Issues Compliance with Sunnyvale Municipal Code

Environmental Status A Class 15 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approval with Conditions



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Industrial & Service	Same	Industrial & Service
Zoning District	M-S	Same	M-S
Lot Size (s.f.)	266,677	Same	22,500 sf min.
Gross Floor Area (s.f.)	81,449	Same	120,005 sf max.
Lot Coverage (%)	75,000	Same	45% max.
Floor Area Ratio (FAR)	31	Same	35% max.
No. of Buildings On-Site	2	Same	---
Setbacks Facing Property			
Front	120'	Same	25 ft min.
Left Side	45'	Same	0 ft min. Total 20 ft
Right Side	60'	Same	0 ft min. Total 20 ft
Rear	110'	Same	0 ft min.
Landscaping (s.f.)			
Total Landscaping	58,668	Same	53,335 min.
Landscaping Buffer (ft.)	15	Same	15 ft min.
Parking			
Total Spaces	285	Same	163 min. 325 max.
Standard Spaces	273	Same	142 min.
Compact Spaces/ % of Total	0	Same	142 max.
Accessible Spaces	12	Same	7 min.

ANALYSIS**Description of Proposed Project**

The applicant proposes subdividing an existing industrial site, comprised of two separate buildings, into two condominium units and one common parcel. The proposed Parcel Map will record an airspace subdivision only, not a physical separation of the land. The existing buildings are currently R&D/office uses and the site would continue to be used as R&D/office.

Background

This site has been vacant for the past several years and has been on the market for lease and sale for over two years. The applicant's initial development

strategy was to divide the existing parcel and buildings into two totally separate parcels, allowing for the individual sale of the parcels and buildings. This strategy was based on current economic market conditions which call for private ownership of small R&D/office buildings. This initial approach was altered after meetings with City staff which determined that a physical subdivision of the land would create numerous deficiencies with Sunnyvale Municipal Code (SMC). The applicant is now proposing a three parcel condominium subdivision of the property.

Environmental Review

A Class 15 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 15 Categorical Exemption includes minor land divisions.

Site Layout: The parcel has street frontage along East Arques Avenue. The site is developed with two, two-story buildings located near the center of the site and surrounded by parking. The site has landscaping around the perimeter with significant trees and large berms along Arques Avenue. There are currently no proposed changes to the structures other than minor upgrades to bring them into compliance with current Building Code.

Currently there is public sidewalk, curb, and gutter along Arques Avenue. The Department of Public Works has identified that these are damaged and in need of repairs. This has been included as a Condition of Approval for this project.

The Department of Public Works has determined that the existing public improvements, such as the driveway approaches and existing water meter need to be upgraded to current City standards. This has been included as a Condition of Approval.

The Department of Public Works, Division of Transportation, has identified that the existing Valley Transit Authority (VTA) bus stop is not constructed to current VTA standards. The Division of Transportation is requiring that the applicant install a cement pad behind the sidewalk for the bus stop bench and there must be at least five feet of clearance between the bench and the curb. This has been included as a Condition of Approval.

Landscaping: The site currently has numerous protected and unprotected trees. The plans for this project include preservation of all existing trees and landscaping. The site exceeds the minimum landscape requirement of 20%.

Parking/Circulation: The site currently has 285 parking spaces, of which 12 are accessible spaces. SMC requires that R&D/office uses have a maximum of

325 parking spaces and a minimum of 163 spaces. The site is conforming to current SMC.

The Division of Building Safety has determined that some of the accessible parking spaces need to be dispersed at each public entrance of the buildings. The applicant has agreed to relocate accessible spaces as directed by the Building Division. This has been included as a Condition of Approval.

Compliance with Development Standards/Guidelines: The site complies with all SMC guidelines.

Expected Impact on the Surroundings: There are no expected impacts to the surrounding property or business owner's resulting from this Parcel Map.

Parcel Map

Description of Parcel Map: The applicant proposes subdividing an existing industrial site, comprised of two separate buildings, into two condominium units and one common lot. The proposed Parcel Map will record an airspace subdivision only, not a physical separation of the land.

Fiscal Impact

No fiscal impacts other than normal fees and taxes are expected.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• 250 notices mailed to property owners and residents adjacent to the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website• Recorded for SunDial

Conclusion

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Parcel Map. Findings and General Plan Goals are located in Attachment A.

Conditions of Approval: Conditions of Approval are located in Attachment B.

Alternatives

1. Approve the Parcel Map with attached conditions.
2. Approve the Parcel Map with modified conditions.
3. Deny the Parcel Map.
4. Direct staff as to where additional environmental analysis is required.

Recommendation

Alternative 1.

Prepared by:

Steve Lynch
Project Planner

Reviewed by:

Diana O'Dell
Senior Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site Plans

Recommended Findings - Parcel Map

In order to approve the Parcel Map, the proposed subdivision must be consistent with the General Plan. Staff finds that the Parcel Map is in conformance with the General Plan. However, if any of the following findings can be made, the Parcel Map shall be denied.

1. That the subdivision is not consistent with the General Plan.
2. That the design or improvement of the proposed subdivision is not consistent with the General Plan.
3. That the site is not physically suitable for the proposed type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.
8. That the map fails to meet or perform one or more requirements or conditions imposed by the "Subdivision Map Act" or by the Municipal Code.

Staff was not able to make any of the above findings, and recommends approval of the Parcel Map.

Recommended Conditions of Approval – Parcel Map

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development, major changes may be approved at a public hearing.
- B. The Parcel Map shall expire two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.
- C. Obtain all necessary Building and Fire permits for any improvements to the site.

2. CC&R's (CONDITIONS, COVENANTS AND RESTRICTIONS)

- A. Any proposed deeds, covenants, restrictions and by-laws relating to the subdivision are subject to review and approval by the Director of Community Development and the City Attorney.
- B. The developer/Owner shall either create a Homeowner's Association that comports with the state law requirements for Common Interest Developments, or create a similar type of maintenance agreement between property owners. Covenants, conditions and restrictions (CC&Rs) relating to the development are subject to approval by the City Attorney and Director of Community Development prior to approval of the Final Map. In addition to requirements as may be specified elsewhere, the CC&R's shall include the following provisions:
 - 1. Membership in and support of an association controlling and maintaining all common facilities shall be mandatory for all property owners within the development.
 - 2. The homeowners association shall obtain approval from the Director of Community Development prior to any modification of the CC&R's pertaining to or specifying the City.
 - 3. The developer shall maintain all utilities and landscaping for a period of three years following installation of such improvements or until the improvements are transferred to a

homeowners association, following sale of at least 75% of the units, whichever comes first.

4. The Conditions of Approval of this Parcel Map

C. The CC&Rs shall contain the following language:

1. "Right to Remedy Failure to Maintain Common Area. In the event that there is a failure to maintain the Common Area so that owners, lessees, and their guests suffer, or will suffer, substantial diminution in the enjoyment, use, or property value of their Project, thereby impairing the health, safety and welfare of the residents in the Project, the City, by and through its duly authorized officers and employees, will have the right to enter upon the subject Property, and to commence and complete such work as is necessary to maintain said Common Area. The City will enter and repair only if, after giving the Association and Owners written notice of the failure to maintain the Common Area, they do not commence correction of such conditions in no more than thirty (30) days from the giving of the notice and proceed diligently to completion. All expenses incurred by the City shall be paid within thirty (30) days of written demand. Upon a failure to pay within said thirty (30) days, the City will have the right to impose a lien for the proportionate share of such costs against each Lot in the Project.
2. It is understood that by the provisions hereof, the City is not required to take any affirmative action, and any action undertaken by the City will be that which, in its sole discretion, it deems reasonable to protect the public health, safety and general welfare, and to enforce it and the regulations and ordinances and other laws.
3. It is understood that action or inaction by the City, under the provisions hereof, will not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
4. It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law will be cumulative and not exclusive of the maintenance of any other remedy. In this connection, it is understood and agreed that the failure to maintain the Common Area will be deemed to be a public nuisance and the City will have the right to abate said condition, assess the costs thereof, and cause the collection of said assessments to be made on the tax roll in the manner provided by appropriate

provisions of the Sunnyvale Municipal Code or any other applicable law.

5. No Waiver. No failure of the City of Sunnyvale to enforce any of the covenants or restrictions contained herein will in any event render them ineffective.
6. Third-Party Beneficiary. The rights of the City of Sunnyvale pursuant to this Article will be the rights of an intended third party beneficiary of a contract, as provided in Section 1559 of the California Civil Code, except that there will be no right of Declarant, the Association, or any Owner(s) to rescind the contract involved so as to defeat such rights of the City of Sunnyvale.
7. Hold Harmless. Declarant, Owners, and each successor in interest of Declarant and said Owners, hereby agree to save, defend and hold the City of Sunnyvale harmless from any and all liability for inverse condemnation which may result from, or be based upon, City's approval of the Development of the subject Property."

3. RECYCLING AND SOLID WASTE

- A. Two solid waste/recycling enclosures (at least one for each building) shall be provided on site.
- B. The two solid waste/recycling enclosures shall be sized to meet current SMC requirements.
- C. The required solid waste and recycling enclosure shall match the design, materials and color of the main building.
- D. The enclosure shall be of masonry construction and shall match the exterior design, materials and color of the main building.

4. RIGHT-OF-WAY IMPROVEMENTS

- A. Obtain a Development Permit from the Department of Public Works for improvements.
- B. Curbs, gutters, sidewalks, streets, utilities, traffic control signs, electroliers (underground wiring) shall be designed, constructed and/or installed in accordance with City standards prior to occupancy. Plans shall be approved by then Department of Public Works.
- C. Any existing deficient public improvements shall be upgraded to current City standards. This includes the driveway approaches (upgrade to current City Standards) and upgrade the existing water meter (upgrade to radio-read water meter).
- D. The applicant shall install a cement pad behind the sidewalk for the bus stop bench and there shall be at least five feet of clearance between the bench and the curb. All plans shall be sent to the VTA for review and approval.

5. LANDSCAPING

- A. The sidewalk, curb, and gutter in the public right-of-way along East Arques Avenue shall be replaced or repaired per Department of Public Works direction and standards, prior to final approval of the Parcel Map.

6. PARKING/CIRCULATION

- A. The applicant shall relocate some of the existing accessible spaces to be dispersed among the entrances to the buildings, as directed by the Division of Building Safety. This shall be completed prior to final approval of the Parcel Map.

7. PARCEL MAP CONDITIONS

- A. Full development fees shall be paid for each project parcel or lot shown on the Parcel Map and the fees shall be calculated in accordance with City Resolutions current at the time of payment.
- B. Comply with all applicable code requirements as noted in the Standard Development Requirements.



FOR: ARCTEC

955 ARQUES AVENUE

SUNNYVALE

CALIFORNIA

